



## COMMUNITY DEVELOPMENT DEPARTMENT

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### PLANNING COMMISSION MEETING MINUTES

#### REGULAR MEETING

OCTOBER 13, 2009

PRESENT: Tanda, Mueller, Hart, Koepp-Baker, Moniz

ABSENT: Escobar, Liegl

LATE: Tanda, who arrived and was seated on the dais at 7:03 p.m.

STAFF: Community Development Director (CDD) Molloy Previsich and  
Minutes Clerk Johnson

Vice Chair Mueller called the meeting to order at 7:01 p.m., inviting Commissioner Hart to lead the recitation of the pledge of allegiance to the U.S. flag. Vice Chair Mueller then determined that the level of audience interest would be enhanced by having the agenda items reported and discussed as follows: (*orders of the day*) 1 – 3 – 4 – 5 – 2, and so ordered the action.

#### **DECLARATION OF POSTING OF AGENDA**

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### **OPPORTUNITY FOR PUBLIC COMMENT**

Vice Chair Mueller opened the floor to public comment for matters not appearing on the agenda.

*Chair Tanda arrived at 7:03 p.m. to be seated on the dais and assume the gavel.*

Commissioner Mueller reported on the High Speed Rail Commission Public Meeting in Gilroy recently, with an emphasis on consideration of alternative routes. Commissioner Mueller described the meeting as 'well attended' and providing positive information regarding funding for the effort, with \$4.7 billion having recently been requested by Governor Schwarzenegger from the Federal Government. This funding request had been explained, he said, by State Assembly 28th District Member Anna Caballero. Commissioner Mueller said, "Thanks to Chair Tanda, who knows High Speed Rail Commission Board Member Rod Diridon, we were able to speak with Mr. Diridon regarding our concerns for Morgan Hill." Commissioner Mueller went on to tell of the progress of the project, with three segments being ahead in the six segment project: San Francisco, Anaheim-Los

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Angeles, and the Central Valley segment (to be the test track). "All in all," Commissioner Mueller said, "there is a very positive feeling for funding, including some private funding interest."

With no others present who indicated a wish to speak, the public comment opportunity was closed.

### MINUTES:

September 22, 2009 COMMISSIONERS MUELLER/KOEPP-BAKER MOTIONED TO APPROVE THE SEPTEMBER 22, 2009 MINUTES WITH THE FOLLOWING REVISIONS:

Page 2, paragraph 3 (clarify): Commissioners asked questions *concerning*:

Page 4, paragraph 2: Moniz asked, "~~What~~ *When* does the City Council expect ~~as result of probable action tonight~~ *a recommendation?*"

Page 6, paragraph 1. This time *will be* the same developers

Page 6, paragraph 5. loans ~~can be determined~~ *will be approved*

**THE MOTION PASSED (5-0-0-2) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, HART, MONIZ, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR, LIEGL.**

### PUBLIC HEARING:

1) **CONDITIONAL**  
**USE PERMIT**  
**AMENDMENT,**  
**UPA-05-13:**  
**MADRONE-**  
**TMOBILE/**  
**VERIZON**

A request to amend an existing Conditional Use Permit to allow for the installation of nine panel antennas for wireless telecommunications on an existing water tank and an enclosed area for equipment cabinets and generator. The site is located at the southeast corner of Monterey Rd and Madrone Pwky and zoned PUD. (APN 726-35-026)

*Disclosure: Commissioner Mueller advised he visited the site of the next agenda and spoke with the applicant representative before the meeting; neither action represents a conflict of interest.*

CDD Molloy Previsich provided a summary of the staff report and the staff recommendation for approval of the CUP. Chair Tanda asked about the notification process for interested persons of this item. CDD Molloy Previsich indicated that notice was provided to owners within 300 feet and posted agendas.

Chair Tanda opened the public hearing.

Applicant representative, Karen McPherson, 12667 Alcoster Blvd. #175, San Ramon was present to address the Commissioners. Ms. McPherson thanked staff for the thorough report, and then directed attention to two of the Conditions of Approval which Verizon asked to be changed:

Condition 10 – "There shall be joint use of the facility with emergency services of the City of Morgan Hill, dependent upon technological feasibility." Ms. McPherson pointed out that Verizon does not own the tower but rents the space from a landlord.

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“We are hoping to have that condition struck,” she said. Ms. McPherson also presented objection to Condition 4 (Defense and Indemnity), 2<sup>nd</sup> sentence: “applicant shall pay all pre-tender litigation costs, including Attorney’s fees...” section continues... Verizon would like to choose legal counsel who represents City; and 3<sup>rd</sup> sentence “pay reasonable internal City administrative costs, including but not limited to staff time...” section continues... Verizon believes that the City should pay for staff time.

Commissioner Mueller commented that this application is unusual in that there is a diesel generator used as a back up. Commissioner Mueller commented he did not know of any other in Morgan Hill, and asked if there has been a record of these previously. Ms. McPherson said she had been in the business for 10 years and was not aware of any problems with such generators. “Verizon wants the carrier ‘on air’ if an emergency arises. I am a Consultant and as such have been instructed by Verizon to have the generator placed in case of an emergency so the service can continue.” Responding to a question from Chair Tanda, Ms. McPherson recapped the Company’s objections in Condition 4 (Exhibit A).

Commissioner Mueller commented on Condition 10, saying, “In the future, if there is any way that technology improves, so that the provider and the City can work together, it would most likely be beneficial to both. Remember, this is standard language for the cell towers. I believe that other wireless companies on this facility have same condition. We will work to the future as we do not currently have the technology to make it work.”

Ms. McPherson reminded that each carrier has a licensed frequency, so all companies are on different frequencies. “Currently,” Ms. McPherson said, “there is not a way to have the City use the tower for emergency services.” She went on to describe a recent problem in another City reflective of a similar circumstance.

CDD Molloy Previsich reminded that ‘a Condition attaches to the property and its owner; and she suggested a language refinement to clarify that the condition is oriented to the owner: “the *property owner shall allow for ....* CDD Molloy Previsich also addressed Condition 4 (Defense and Indemnity), saying, “If the Commissioners generally support the applicants’ request, then the motion should indicate a requirement for review by the City Attorney so that the final language is required to reflect what the City Attorney accepts of the applicant’s desired changes.

With no others in attendance indicating a wish to address the matter, the public hearing was closed.

Commissioner Moniz asked further clarification of ‘condition applicable for the owner of the parcel’. CDD Molloy Previsich explained the intent here: to address what the property owner has made arrangement for. Commissioner Mueller added, “At least for the three legs of the tower currently being used, all have language stating ‘joint use .... with emergency services of the City.’”

**COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING A  
CONDITIONAL USE PERMIT AMENDMENT TO ALLOW FOR THE**

**INSTALLATION AND USE OF NINE TELECOMMUNICATIONS ANTENNAS AND ASSOCIATED EQUIPMENT CABINETS FOR WIRELESS COMMUNICATION SERVICES AT 18735 MADRONE PARKWAY, INCLUSIVE OF THE FINDINGS AND CONDITIONS THEREIN, AND PROVIDING TWO AMENDMENTS TO EXHIBIT A:**

**Condition 4** (Defense and Indemnity), the City Attorney will be asked to review and recommend action regarding the request of the applicant for choice of counsel (sentence 2) and payment of staff time (sentence 3)  
**Condition 10** – the property owner shall allow for joint use of the facility with emergency services of the city of Morgan Hill, dependent upon technological feasibility.

**COMMISSIONER KOEPP-BAKER PROVIDED THE SECOND TO THE MOTION, WHICH PASSED (5-0-0-2) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, HART, MONIZ, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR, LIEGL.**

**OTHER BUSINESS:**

Discussion of possible modifications of RDCS Policies: (1) Exception to Loss of Building Allocation (ELBA) Policy, (2) On- Going Project Allocation Policy.

**3) DRAFT RDCS POLICIES**

CDD Molloy Previsich presented the staff report, reminding that this was the third time the item had been under discussion with the Commissioners, staff, and the developers. She noted that the Commissioners had asked modifications be included in the final draft policy, along with having the City Attorney review the proposed policy {now completed} for determination of meeting the objectives of establishing specific guidelines for the City Council to consider Exceptions to Loss of Building Allocations. CDD Molloy Previsich said that as a result of previous discussions, Option 1 allows the greatest amount of flexibility but meets the needs of the City Council, for clear direction as to what constitutes developer action/inaction. CDD Molloy Previsich called attention to the revised draft wherein criteria for determining ‘stabilization of the housing market’ had been added on page 2; and also a further modification is suggested for clarification:

.....three Morgan Hill *single family* projects have commenced construction.....

Commissioner Mueller said he had been talking with SP Linder about a concern that the small numbers of projects in the other new criterion (3 single family projects of at least 10 units each) might not be able to really be the gauge for deciding that circumstances outside of developers control are now resolved. “We have such a large number of pent up allocations, so it may take a while to come out of the problem,” he said. CDD Molloy Previsich responded, “The Policy does not contain any automatic rescission of allotments. These are Guidelines, and there will still be opportunity to consider market conditions.”

Chair Tanda opened the public hearing.

Rocke Garcia was present, on behalf of himself and other local developers, to say to the Commissioners: “We are eternal optimists. We don’t know how soon this slump will be over, but we thank you for your support in this matter.”

With no others present who indicated a wish to address the issue, the public hearing was closed.

**COMMISSIONERS MUELLER/MONIZ MOTIONED TO APPROVE AND FORWARD TWO POLICIES TO THE CITY COUNCIL:**

- 1. GUIDANCE FOR DECISIONS ON EXCEPTION TO THE LOSS OF BUILDING ALLOCATION (ELBA) REQUESTS FILED BY DEVELOPERS, WITH MODIFICATION TO PAGE 2, ITEM 2; PARAGRAPH 2:**

.....three Morgan Hill *single family* projects have commenced construction.....

- 2. ALLOCATIONS FOR ON-GOING PROJECTS**

**THE MOTION PASSED (5-0-0-2) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, HART, MONIZ, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR, LIEGL.**

**4) SCHEDULE FOR REVIEW OF PROJECT APPLICATIONS FOR THE UPCOMING RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) COMPETITION**

CDD Molloy Previsich gave the staff report, noting, “There is not a lot of need to talk through this item. We are just presenting information about the RDCS applications and proposing the tentative schedule for review of project applications as we carry out the Residential Development Control System competition process.

Chair Tanda asked, “Were all applicants and developers aware of the proposed schedule?” CDD Molloy Previsich advised that the development community is generally aware of Morgan Hill’s annual October deadline; staff talks to them throughout the year. She then told of additional procedures staff used for interaction with the developers and to announce any pertinent information to them.

**COMMISSIONERS MONIZ/MUELLER MOTIONED APPROVAL OF THE TENTATIVE SCHEDULE FOR REVIEW OF PROJECT APPLICATIONS FOR THE UPCOMING RESIDENTIAL DEVELOPMENT CONTROL SYSTEM COMPETITIONS. THE MOTION CARRIED (5-0-0-2) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, HART, MONIZ, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR, LIEGL.**

**5) MULTI-FAMILY VACANCY RATE REPORT**

Biannual review of apartment vacancy rate as required in accordance to the Morgan Hill Municipal Code, Chapter 17.36

CDD Molloy Previsich presented the staff report and called attention to the supplemental report and revised data of interest which had been placed on dais.

Commissioner Mueller clarified that information for ‘rehab units’ was not available so those units don’t count in the vacancy rate.

Chair Tanda asked if the rates as reported were high or low – and could those numbers be considered typical? CDD Molloy Previsich responded, “Currently, then

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numbers are higher as we are experiencing a softer rental market than usual.”

Commissioner Mueller referenced the Condo Conversion Section of the Ordinance (§ 17.36) which indicates that any units must be online for six months before being counted in the vacancy rate. “My concern, he said, “is that we seem to be pumping large number of units into the system, and there is a large delay in sales.” CDD Molloy Previsich said, “In a normal market, when a house is built, the property generally sells within that first six months. However, as we come out of this recession, we don’t know what to expect, but it’s likely that builders and banks won’t build unless they think they can sell the houses. Commissioner Mueller asked to have staff check with other Cities to ascertain their time frame for calling for action to possibly adjust the Condo Conversion ordinance. “I don’t want to see a situation where we start to lose rentals due to a large inventory of unsold units staying vacant for more than six months and driving the vacancy rate up.” CDD Molloy Previsich said that matter would be referred to the Business Assistance and Housing Services staff.

**COMMISSIONERS MUELLER/ KOEPP-BAKER MOTIONED TO ACCEPT AND APPROVE THE REPORT OF BIENNIAL REVIEW OF THE MULTI-FAMILY VACANCY RATE REPORT AND FORWARD THE REPORT TO THE CITY COUNCIL. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ESCOBAR AND LIEGL WERE ABSENT.**

### **PUBLIC HEARING:**

#### **2) DOWNTOWN SPECIFIC PLAN AND MASTER EIR**

Public hearing to develop a recommendation to the City Council regarding proposed adoption of the 2009 Downtown Specific Plan (*consisting of the July 2008 Draft Specific Plan as modified by the October 2009 Addendum*) and associated General Plan and Zoning Map and Text Amendments, including certification of a Master Environmental Impact Report (EIR). The area affected includes the 18 blocks within the Specific Plan boundaries, defined as Main Avenue on the north, Butterfield Blvd to the east, Dunne Avenue at the south, and Del Monte Avenue on the west, as well as “Block 19” and “Block 20” and the “CC-R” zoning district, as described in the Proposed 2009 Downtown Specific Plan and October 8, 2009 Addendum to the Specific Plan. A summary description of the proposed General Plan and Zoning Amendments is listed on the meeting agenda and staff report.

CDD Molloy Previsich presented and discussed a powerpoint slide show, which reviewed the goals and content of the proposed Downtown Specific Plan and associated proposals, as well as key findings of the EIR. A new Central Business District and CBD zoning is proposed to replace the current Mixed Use – Central Commerical-Residential zoning downtown, in that the CC-R only allowed up to 18 units per acre, and it is desirable to establish a downtown residential neighborhood with greater density to support the businesses and activity downtown, which is also well-served by transit. In Block 16 (VTA/CalTrain site) the original proposal was for multi-family high; however, in the distributed addendum, this Block was now included in the CBD. The reason, is that the site can accommodate more than the 40

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unit per acre maximum of R-4, and it is somewhat awkward to have a Caltrain parking lot in R-4. Also, VTA has indicated they may want to have some office uses in the mix, and VTA and the city's redevelopment agency are working together to try to do a transit-oriented development on the site. It is not the intent to have retail on this block.

In remaining area north and south of the City center, the areas zoned CC-R would increase from 18 to 20 maximum units per acre. Block 19 is the Britton School site, which is proposed for mixed use/CC-R zoning along the Monterey Road frontage, and which has been modeled as ground floor office with residential above.

Recommendations for Block 20 have been included in the Specific Plan, as redevelopment of that site has long been desired. The land use goal for the portion of the shopping center located west of the Llagas Creek/SCVWD easement is that it be redeveloped with Multi-Family Medium use. East of the Creek, which contains the existing gas station, Ross Store, liquor store, bakery etc, is planned to continue to allow commercial use, and also allow mixed uses should redevelopment occur in the future. The idea is to try to concentrate retail development in the Core, and to better match the multiple-family residential uses that now exist north, west and south of this westerly portion of the shopping center. However, she said, given the current economy, with the housing market very weak there is need to talk about whether or not to pursue re-designation and rezoning of that westerly portion of the shopping center. She noted that the EIR did evaluate a "worst case" situation of having the commercial square footage remain.

CDD Molloy Previsich went on to explain that Staff has developed a possible Commercial Use Overlay District and associated Commercial Administrative Use Permit process as possible tools for working with continuation of the shopping center uses in the interim of time before redevelopment is feasible

Continuing, CDD Molloy Previsich said, "In the CBD we did not concentrate on maximum density, but zoning by height and floor area ratio (FAR). It is proposed that larger sites of 22,000 sf be allowed four stories and a greater FAR. Any fourth floors would need to be stepped back and the design review process would focus on attention to 4<sup>th</sup> floor design, such as ensuring sunlight to street. She also told of the Ground Floor Overlay District and modifying the existing requirements for depth of retail on Monterey and Third to 60 and 50 feet, respectively, rather than the existing 75 feet; but requiring 80 by 80 at the corners. For the commercial properties, a floor to ceiling height of 14-feet will be required. Turning to the issue of parking, CDD Molloy Previsich spoke about on-site residential parking, and the intent to increase the public parking supply for common non-residential parking by about 800 parking spaces to serve the projected amount of development by 2030.

CDD Molloy Previsich reminded that the Circulation Element Amendment (public hearings scheduled for January/February 2010) is the process that will consider the information that has been developed regarding the potential narrowing of Monterey Road; the Downtown Specific Plan accommodates any configuration. The Circulation Element is also where the Level of Service (LOS) Policy Amendment will be discussed and acted upon. However, the Specific Plan does contain some of this information as well in the "Project Alternate" and "Cumulative" analysis,

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recognizing that the amendment has been proposed for study. The analysis shows that if Monterey Road is two lanes between Main and Dunne, that segment would operate at LOS F, and there will be impacts at various intersections.

Downtown merchants do have issues with parking, so the Plan has provisions for upgrading the parking: by 2015, the projection is a need for 300 additional spaces, and a total of 800 spaces by 2030. The RDA expects to be the key agency for funding and parking. We anticipate that there will also be some level of in-lieu fee for developments. Residential parking will be required for on-site. Parking assessment will be on-going and there will be monitoring of merchant/employee parking,” CDD Molloy Previsich stated.

Other matters reviewed by included:

- Design and Signage Guidelines
- public hearing for new projects, with Community Development Director to decide at what level heard: significant actions by City Council for granting permits; others at Planning Department or Administrative/staff level
- Measure A exemption for 500 units downtown – once plans adopted future projects will file design and go thru Design Permit process, and the first 500 are exempt from RDCS allotments requirement
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CDD Molloy Previsich concluded that a key issue that the Planning Commission will need to focus on during developing its recommendations to the City Council is what to do about Block 20 (whether to pursue the Multi-Family Medium land use designation, with the Commercial Use Overlay and Commercial Administrative Use Permit Process).

CDD Molloy Previsich told the Commissioners, “Due to the severity of the weather tonight, some people may not have been able to come to this meeting to provide public comment, you may want to consider opening the public hearing, accepting public comments and having some Commission questions etc, but then continuing this meeting to provide more opportunity for public participation prior to taking action on your recommendations to Council.”

Chair Tanda opened the public hearing.

Don Dey, 203 Latvia Arul Court, explained that his profession is a Traffic and Transportation Engineer. “I want to talk in favor of the staff proposal and the Specific Plan. It is a good plan. I like the mixed use development; it will give the Downtown a ‘sense of place’. It is nice now but this plan will add to the energy for a ‘real positive’. Mr. Dey said the Plan will be good for everyone. Mr. Dey spoke at length about three elements of moving people: pedestrians (coupled with bicycle travel), parking, and circulation.

“We also need to take seriously the consideration of change to Monterey Road into a two-lane road,” Mr. Dey said, and then presented an analysis of the benefits of that change, including the potential for angled parking. Mr. Dey added that he had a concern that there seemed to be no new parking areas on the east side of Monterey, so an imbalance is created. “I think RDA could take the lead in parking



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development on the west of Monterey.”

As to circulation, Mr. Dey noted that there is a nice grid layout of the downtown street system, but Del Monte is not completed through to connect to Third Street, and if it were completed it would provide an alternative route to Monterey Road in the downtown. Mr. Day also expressed concern about allowing intersections at the downtown gateways to degrade further than they are now. “Under a Monterey Road Narrowing, there is no need to choke traffic to two lanes right at Main and Dunne, which would make it less attractive for customers to go downtown and would also inhibit east-west traffic. I think it would be a mistake to let intersections deteriorate further,” Mr. Dey commented. “I support the Plan you have. I think it provides good vision with hope for enhancement of the Downtown.”

Chair Tanda asked Mr. Dey if he was in support of retaining LOS D+ at all intersections of City? Mr. Day responded, “I’m in support with limited knowledge of the Circulation Element. I don’t know about Main and Monterey being maintained at level D, so I suggest completing Del Monte and that may provide the relief needed. I don’t think destroying buildings just to widen the road way should occur.”

Dennis Kennedy, former mayor and President of the Morgan Hill Downtown Association, told the Commissioners he was present in the capacity of representing a group working on a refinement of the Vision Statement. “This group is made up persons who worked for passage of Measure A and exempting 500 units in Downtown. Now that group is commonly known as “Beyond Measure A” and is working toward proper implementation of Downtown efforts,” Mr. Kennedy explained. He went on to detail the following:

- support for the language (in general) of the Downtown Plan
- recommend RDA funds for streetscape planning
- focus on vision statement page 1-5 (current statement staff report addendum); and offering suggested language adding to the Vision Statement; not a significant change, but providing further clarification [Strengthening downtown as *the gathering place, connecting force, and ...* section continues]
- additional language focuses on the need to provide a public place downtown: piazza, City square, Town gathering place
- Downtown needs to be known as an attractive place to live as well as for shopping

Chair Tanda complimented the ‘powerful vision statement presented’ as being ‘well thought out’. Commissioner Koepp-Baker advised she had been at the meeting when the addition to the Vision Statement was being formulated, and asked, “Has staff seen the addition previously?” Mr. Kennedy said he had brief discussion with CDD Molloy Previsich regarding the matter. CDD Molloy Previsich said the wording was ‘well done’.

Bert Berson, 17591 Carriage Lamp Way, talked about the process of completing the recommendation for the Vision Statement changes. “People talk about the uniqueness of the people and the community of Morgan Hill, but have difficulty identifying those traits. With the uniqueness of the community and the need for

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connectedness, we want to make sure the Downtown will provide that community and uniqueness. We will be working on action statements next," Mr. Berson explained.

Lesley Miles, 510 W. Dunne, addressed the Commissioners, and indicated she had planned to have Jerry DiSalvo of the Downtown Association speak; he was unable to attend due to a building being flooded. "I look forward to having him at the continuation meeting next week," she said.

Ms. Miles told the Commissioners that in 1986, she and her partner had started an architecture firm in the City. At that time, she said, Monterey Road was the main 'freeway' for Morgan Hill. "Being downtown has been interesting: even though {Highway} 101 has moved, the sense of a car-oriented downtown has not changed. Next week we will talk about the vision and will tell how the downtown can be more pedestrian oriented as part of Beyond Measure A group, focus of coming together downtown, as Mr. Kennedy mentioned. Space without buildings became most credible over this last summer; the community center has resonated; but we want to further the efforts for downtown. I am very much in support of moving ahead with the vision statement," Ms. Miles said.

Julie Hutchinson, 1515 Kelly Park Circle, requested clarification (Addendum, Page 6, page 2-26, *public noticing* (paragraph 2, line 3...smaller or more minor projects (section continues); what does smaller mean? CDD Molloy Previsich provided examples: awnings, sign change outs, changing windows, addition to rear of building not noticeable from sidewalk; "It's a matter of judgment, but some projects are very straightforward and staff can handle those administratively. However, we know that there is a very large public interest in what happens downtown, and so more visible and significant projects would be acted upon by the Planning Commission or City Council" she said. "If the project is on an RDA-owned site or has significant RDA funding, it is likely that the City Council will be the final decision makers."

With no others present to address the matter, the public hearing was closed.

Responding to a question regarding process for this evening, CDD Molloy Previsich indicated that the emphasis most likely would be on discussion/decision about how to address Block 20, and then also identify any other issues. If the Commission feels ready to act that is possible, but continuing to next week would allow more public input and also more information about concerns to be discussed of Commissioners. Then we would focus on these next week and also have the final detailed Resolutions with the attachments that you would be forwarding to the City Council, including the CEQA findings and Statement of Override.

Chair Tanda conducted a straw poll regarding possible continuation based on the 1) weather circumstances today and 2) need for more review before sending the matter to the City Council. All Commissioners present – with Escobar and Liegl absent – agreed that continuation to Tuesday, October 20, 2009 would be beneficial.

CDD Molloy Previsich indicated that the EIR and traffic consultants were present this evening, and she encouraged the Commissioners to ask any EIR or traffic-

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related questions and also wanted to present information related to Mr. Dey's concerns. In particular, she desired discussion of the Main/Monterey intersection, and to show an exhibit about why it is not considered feasible to extend Del Monte north to connect to Third Street. She then presented that information, which showed steep topography, and that the street would cut through the middle of the city's water reservoir on Nob Hill, and affect many oak trees. Also discussed was the plan for extension of Depot Street to Church Street through the parking lot. CDD Molloy Previsich pointed out that the Public Works Department (response included in the EIR) had concluded that Del Monte was not feasible, but they do support extending Depot to connect to Church, and north to McGlaughlin to provide the alternate travel route to Monterey Road in the downtown.

Engineers Daniel Rubins and Sohrab Rashid, representatives of Fehr and Peers, traffic consultants to the City, were asked to respond to technical comments made during the public hearing, and they discussed the Main/Monterey intersection and showed exhibits related to future improvements, which require additional right of way where existing buildings currently exist.

Commissioner Mueller commented that the bus stop west of the intersection of Main/Monterey is an obstacle to traffic flow, and should be considered for relocation.

Chair Tanda asked the Consultants to address LOS issues, which they did in detail. He also asked questions of the calculated delay noted for Monterey Road if narrowed: LOS F with 120 seconds of delay. CDD Molloy Previsich advised that the LOS had been studied at certain Monterey Road downtown intersections. Fehrs and Peers representatives led discussion of the delays, noting that the "beginning" of LOS F is 80 seconds of delay, and traffic engineers can calculate F's beyond that for 20, 20 or 40 seconds, but beyond that the "math and analysis" does not really support getting authentic projections. So the 120 seconds of delay is about as much as they typically would publish. The possibility of establishing a "floor" for an LOS F was discussed, such as the 120 seconds that has been projected.

Chair Tanda said, "A hypothetical case needs to be considered: if Main/Monterey becomes very congested, could people choose not to live downtown or visit downtown? If we allow F would we be setting up something that would doom downtown to fail?"

Consultant Rashid responded that the goal is to create a place so attractive it will not only be a gathering place but people will want to go there and live there even with more traffic congestion. It is more complicated than just saying no one will want to go there – but a focus on attractiveness. Whether you do or don't like Santana Row, the fact is that lots of people go there, even with its parking problems and congestion. That's why it's good to have parallel facilities – the through-travelers will divert in the face of congestion, traffic would use Butterfield and Santa Teresa."

Commissioner Mueller asked, "In the EIR, we see impacts in part of the Specific Plan with mitigation measures. When Monterey streetscape is set, could we consider not narrowing the stretch between Dunne and Fifth Streets? Do we want a

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more powerful statement as a recommendation?" CDD Molloy Previsich said, "It is also in the Plan where we talk about Monterey Road, to carry out alternative design streetscape planning, and this could be included.

Items to be discussed at the continued public hearing next week were noted:

Chair Tanda, having noted the intent to continue the meeting, polled the Commissioners as to other issues to be discussed:

Koepp-Baker: Block 16 -- she has not been not fully convinced that putting mixed use and CBD for Block 16 is a good idea; she is concerned about allowing retail use on Block 16 under the CBD zoning

Moniz: wants history on why Block 19 is proposed for change

Tanda: is this whole area in flood plain [parts of it]; for those areas that are, are there designs consistent with flood plain needs [yes]. Also, does the minimum height for first floor [14-feet/commercial] only apply to non-residential?

Mueller: Block 20 – information needed regarding implementation tools for interim commercial use if the west part is redesignated for multi-family. Also, still very uncomfortable with minimum lot area for 4 storied buildings; "That lot size is too small."

Hart: concerns about four stories and mild concern about Blocks 13 & 14 ~ why designating to multi family medium

Mueller: think will be generating legal non-conformity on some lots: the Votaw building at the corner of Second and Monterey (NE) - not sure the lot by itself is 80 feet in size. Discussion ensued regarding which lots were 'ok' as CDD Molloy Previsich reminded that the minimum lot size and dimensions really are only a factor when one is creating new lots.

Chair Tanda asked, "At what point in the process - if an action is recommended that is an item not in the Draft Specific Plan, would additional CEQA work be triggered?" CDD Molloy Previsich assured that nothing has been brought up to date which would require additional CEQA work.

Discussion ensued regarding Block 20, with CDD Molloy Previsich advising that when the City was updating the Downtown Plan in 2007, the housing market had been strong and this shopping center was viewed as a prime site for redevelopment. She provided information about the location of Llagas Creek and the Santa Clara County Water District future PL566 flood control project which goes through the block. "In 2007, there was an active development effort to gain site control over the property on the block, and multifamily use was contemplated for the westerly portion. That land use configuration makes a lot of sense and reflects goals of appropriate land use and concentrating commercial use in the Core. However, it is relevant to consider whether it is feasible to have redevelopment on the block? If the City were to move forward with rezoning, then the current commercial uses, or new plans for new uses occupying vacant spaces, might be not allowable, as they would not conform to the new residential zoning.

An alternative to making the land use change at this time would be to include some new policy language in the General Plan stating this is a desirable site for redevelopment. Or we could make the change but also put a Commercial Use

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Overlay over the multi-family residential portion, and establish a new Commercial Administrative Use Permit process with permits approved by staff. However, for property and business owners there may be increased difficulty in dealing with the site, as there would exist the possibility that at some point in the future the city might not approve such CAUPS, to further support the desired redevelopment. time constraints if extensions are offer.

Chair Tanda asked if the property owners had been notified of the discussion at the meeting, with the potential decision being made at this meeting? [yes] Chair Tanda said he was curious that there had not been a response of any kind from those owners.

Commissioner Koepp-Baker commented she was not totally aware of history of this shopping center. "I first heard about it 2 - 3 years ago when it appeared that the City wanted redevelopment. My question is: why not leave just leave it as it is now until there is a point in time when the City can begin the redevelopment they want there? It doesn't seem immediate for the next 3 - 5 years." CDD Molloy Previsich responded, "Block 20 was included in Measure A. If the City wants residential there, there must be a General Plan Amendment at some point. The City got approval in Measure A for the block to be included in the area that qualifies for the 500 exemptions from RDCS, so this is as good as it will get for that change, but the market conditions aren't favorable now." Commissioner Koepp-Baker said, "I agree it can be justified, but the question is: is it economically feasible now - and until it is time to do a redevelopment - can we leave the site as is for the present. Until the owner is interested, maybe we should let the situation remain moot until the future. The question is only when?"

Commissioner Mueller commented, "We do want to do something constructive with that significant piece of land - it's about 10 acres."

Commissioner Moniz said the vacancy rent appears to be 'pretty stable'. Chair Tanda disagreed, saying, almost all the shop sites are vacant 'in the middle of the center' except for the hair stylist. CDD Molloy Previsich was asked to report at the next meeting regarding the vacancy rate. Chair Tanda said he was very surprised that no one from that group (the shopping center) has come to speak regarding potential action by the City for Block 20.

Commissioner Hart observed that she "really can't visualize what the City is trying to do with Block 20 in view of the underground culvert, the commercial and multifamily zoning, etc. "Are you proposing that Block 20 be split?" she asked. CDD Molloy Previsich responded that Block 20 contains many parcels and current uses, with the proposed zoning line corresponding with the Llagas Creek easement and along parcel lines.

Commissioner Hart asked for clarification of nothing occurring until the property owners indicate readiness to act. CDD Molloy Previsich advised the City could designate use or wait for the property owners to initiate action.

Commissioner Mueller stated, "In my opinion, there is not a single property owner, but multiple owners who have been taking cash out of the project for years. About

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one and a half years ago, there was a strong attempt by a few for getting control of the whole site. Historically that shopping center has not had a high vacancy rate. My opinion is: the City needs to work out the 'kinks', but he likes the Overlay and CAUP approach." CDD Molloy Previsich said, "The proposed General Plan and Zoning amendments do just that – make the land use reflect the city's long term goal, but provide tools to manage the transition. However, even if we don't pursue that, I think we have made steps forward, given completion of the EIR that has studied the desired uses, and the clear policy goal of the City will help the land owners at the time they are more receptive to potential redevelopment when the market improves."

Commission discussion ensued. It was noted that most of the owners are absentee owners not many live here in area. Some thought that we have to take the properties under consideration separately if we are going to do anything positive. The site will also be a strong indicator of how the City views retail going to the CBD for a satisfying core. One problem with taking the PUD off: we are not sure how zoning conditions stay if the PUD goes away. Then, we also have to clean up the process for redoing the vacancy rate because of multiple ownerships; how will it work if one owner doesn't want to work with redevelopment?"

Commissioner Mueller said it would be essential to have the issue come back with owner input. Commissioner Koepp-Baker added, "That and knowing what the current vacancy rate is and what variables have affected over last 12-18 months cause need for more information."

Chair Tanda suggested that the owners on the western properties need to come together with others for a total plan.

Commissioner Mueller recalled that two years ago a third party had managed to get letters of participation and control for dealing with the whole property. CDD Molloy Previsich said she had been informed that plan had been 'pretty close' as reported to staff.

Chair Tanda spoke to commercial interests at the center competing with downtown. Commissioner Mueller said, "Some shop owners now in that center will be able to relocate downtown; and some not be able to go downtown; but it is necessary to look at the big picture and having the Downtown effort extending to Block 20.

**COMMISSIONERS MUELLER/KOEPP-BAKER MOTIONED TO CONTINUE THE DISCUSSION TO A MEETING TIME OF 7:00 P.M. ON TUESDAY, OCTOBER 20, 2009. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ESCOBAR AND LIEGL WERE ABSENT.**

### ANNOUNCEMENTS / COMMISSIONER IDENTIFIED ISSUES

None

### CITY COUNCIL REPORTS

None

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**ADJOURNMENT**

Noting that there was no further business for the Planning Commission at the time in this meeting, Chair Tanda recessed the meeting at 9:43 p.m.

**MINUTES RECORDED AND TRANSCRIBED BY:**

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**JUDI H. JOHNSON, Minutes Clerk**

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